

Notice of Allowability

Application No.

10/785,091

Examiner

Thomas H. Parsons

Applicant(s)

OYABE ET AL.

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment Filed 28 February 2007.
2. ☒ The allowed claim(s) is/are 1,3,4,6,7,9 and 10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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This is in response to the Amendment filed 28 February 2007.

(Previous) DETAILED ACTION

Double Patenting

1. The provisional rejection of claims 1-7 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-5 and 15 of copending Application No. 10/629,550 has been **withdrawn** in view of the abandonment of the copending application.

Claim Rejections - 35 USC § 112

2. The rejections of claims 1, 3-4, 6-7 and 9-10 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention have been **withdrawn** in view of Applicants' Amendment.

Claim Rejections - 35 USC § 102

3. Applicants' arguments, see Remarks, pages 6-7, filed 28 February 2007, with respect to 1, 3-4, 6-7, and 9-1 have been fully considered and are persuasive. Accordingly,

The rejection of claims 1, 3, 4, 6, and 10 under 35 U.S.C. 102(b) as being anticipated by JP58-176879 as further evidenced by Takada et al. (5,460,896) has been **withdrawn**.

The rejection of claims 1, 3, 4, 6, and 10 under 35 U.S.C. 102(b) as being anticipated by Miller et al. (6,756,141) as evidenced by Takada et al. (5,460,896) has been **withdrawn**.

The rejection of claims 7 and 9 under 35 U.S.C. 103(a) as being unpatentable over JP58-176879 as evidenced by Takada et al. (5,460,896) has been **withdrawn**.

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The rejection of claims 7 and 9 under 35 U.S.C. 103(a) as being unpatentable over Miller et al. has been **withdrawn**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas H. Parsons whose telephone number is (571) 272-1290. The examiner can normally be reached on M-F (7:00-4:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas H Parsons
Examiner
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STEPHEN KALAFUT
PRIMARY EXAMINER
GROUP 1700